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School Finance Litigation: McCleary v. State of  
Washington

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9-8-2009

**Reporter's Verbatim Report of Proceedings, Tuesday, September  
8, 2009, Volume V, Session 4 of 4 [Pages 1141-1193]  
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR KING COUNTY

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4	MATHEW and STEPHANIE McCLEARY,	)	
	on their own behalf and on	)	
5	behalf of KELSEY and CARTER	)	
	McCLEARY, their two children in	)	
6	Washington's public schools;	)	SUPREME COURT OF WA
	ROBERT and PATTY VENEMA, on their	)	No. 84362-7
7	own behalf and on behalf of HALIE)	)	
	and ROBBIE VENEMA, their two	)	
8	children in Washington's	)	
	public schools; and NETWORK	)	
9	FOR EXCELLENCE IN WASHINGTON	)	
	SCHOOLS ("NEWS"), a state-wide	)	
10	coalition of community groups,	)	
	public school districts, and	)	
11	education organizations,	)	
		)	
12	Petitioners,	)	KING COUNTY CAUSE
		)	No. 07-2-02323-2 SEA
13	vs.	)	
		)	
14	STATE OF WASHINGTON,	)	
		)	
15	Respondent.	)	

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17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--

19 TUESDAY, SEPTEMBER 8, 2009  
 20 VOLUME V - Session 4 of 4

21 --oOo--

22 Heard before the Honorable John P. Erlick, at King  
 23 County Courthouse, 516 Third Avenue, Room W-1060,  
 24 Seattle, Washington.

25 --oOo--

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CYNTHIA A. KENNEDY, RPR  
CSR No. 3005  
Official Court Reporter  
King County Superior Court  
516 Third Avenue, C912  
Seattle, Washington 98104  
  
(206) 296-9188

1                   A P P E A R A N C E S:

2

                  --oOo--

3

4   THOMAS F. AHEARNE, CHRISTOPHER G. EMCH, and EDMUND W.  
5   ROBB, Attorneys at Law, appearing on behalf of the  
6   Petitioners;

6

7   WILLIAM G. CLARK and CARRIE L. BASHAW, Assistant  
8   Attorney Generals, appearing on behalf of the  
9   Respondent.

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## 1 CHRONOLOGICAL INDEX

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4 TUESDAY, SEPTEMBER 8, 2009 - Afternoon Session  
(Resumed)

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SKIP PRIEST (Resumed)

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Direct (Resumed) by Mr. Ahearne 1146

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Adjourned 1193

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## 1 EXHIBIT INDEX

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4 EXHIBIT

ADMITTED

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1 SEATTLE, WASHINGTON

2 TUESDAY, SEPTEMBER 8, 2009

3 AFTERNOON SESSION RESUMED - 3:00 P.M.

4 --oOo--

5 THE COURT: Please be seated.

6 BY MR. AHEARNE:

7 Q. If we can go back to Exhibit 214, please.  
8 Second paragraph, it references the task force. And  
9 before the break I'd asked you about your statement  
10 here, "The task force is charged with doing what 18  
11 previous studies, including Washington Learns, failed  
12 to do."

13 My question is, what are the 18 previous  
14 studies that you're referring to?

15 A. I can't answer all the previous studies. I  
16 do know that we had Washington Learns before it and  
17 there has been just been study after study after  
18 study. The information that was provided to us was  
19 that there are 18 studies. I will also tell you that  
20 some people say there are 120 studies. Depending on  
21 what you define the study as, you will get different  
22 answers. This is reflected on fairly major studies as  
23 far as the issue of education funding is concerned --

24 Q. So --

25 A. -- by the legislature.

1 Q. All right. The 18 you're referring to are 18  
2 major studies by the legislature on education and  
3 funding?

4 A. Yes.

5 Q. That's K-12 education funding?

6 A. Yes.

7 Q. And when you refer to "Washington Learns  
8 failed to do," what did Washington Learns fail to do?

9 A. Washington Learns failed to answer the most  
10 critical question when it comes to education financing,  
11 and that is --

12 MS. BASHAW: Your Honor --

13 THE WITNESS: -- what dollars are necessary.

14 THE COURT: One moment.

15 MS. BASHAW: I apologize for the late  
16 objection. We are now getting into lay opinion  
17 testimony about what Washington Learns "failed to do,"  
18 and it's improper to have this witness testifying as to  
19 his opinion if Washington Learns failed to do  
20 something.

21 THE COURT: Mr. Ahearne?

22 MR. AHEARNE: Instead of having a speaking  
23 objection, why don't I just ask a few questions that I  
24 think will solve the problem.

25 THE COURT: All right. Would you like to



1 rephrase?

2 BY MR. AHEARNE:

3 Q. Were you involved in the Washington Learns  
4 effort?

5 A. Yes, I was a member of the K-12 Advisory  
6 Committee.

7 Q. And did you ever read the bill that created  
8 Washington Learns?

9 A. Yes.

10 Q. And do you have an understanding of what  
11 Washington Learns was tasked to do?

12 A. It was tasked to develop a comprehensive  
13 approach to early learning, K-12 and higher education,  
14 and provide direction as to the resources that would be  
15 necessary to achieve the goal of the seamless approach  
16 to education in our state.

17 Q. And based on your understanding of what  
18 Washington Learns was tasked to do and your involvement  
19 with the Washington Learns process, do you believe  
20 Washington Learns' failed to do anything that you  
21 understood it was supposed to do?

22 A. Yes.

23 Q. And what is that?

24 A. As a member of the K-12 Advisory Committee,  
25 very much like the Basic Education Finance Task Force,

1 we provided specific suggestions in the part of the  
2 plan in terms of how to achieve the goal of meeting our  
3 responsibility of providing ample and uniform funding.

4           Those included a recommendation in terms  
5 of numbers. It is my understanding that those were not  
6 followed through, and, in fact, the final Washington  
7 Learns document does not provide the numbers that were  
8 discussed by the K-12 Advisory Committee.

9       Q.     When you say numbers, are you talking  
10 staffing levels? Are you talking dollar numbers? What  
11 kind of numbers?

12       A.     Both in terms of many of the specifics but,  
13 also, it is my understanding that the K-12 Advisory  
14 Committee report was reviewed by the Office of  
15 Financial Management. The number that came back was a  
16 very large number, very similar to the ones that came  
17 back as a result of the work by the Basic Education  
18 Finance Task Force.

19           After that realization, Washington  
20 Learns then became a thoughtful study that did not  
21 address what we believed was necessary, and that is,  
22 how many dollars is going to be necessary to -- one is  
23 identification of the goals and then, two, how many  
24 dollars would be necessary to achieve those goals.

25       Q.     Okay. Could you briefly describe for the

1 court what the K-12 Advisory Committee did in its  
2 relationship with Washington Learns?

3 A. There were three advisory committees to a  
4 Washington Learns Oversight Committee, one on early  
5 learning, one on K-12, and one on higher education. It  
6 was our responsibility, like the early learning and the  
7 higher education, to put together a plan that would be  
8 then forwarded to the oversight committee, which we  
9 did.

10 Q. When you said the oversight committee, do you  
11 mean the Steering Committee?

12 A. Steering committee.

13 Q. Okay. If I could ask you to look at Exhibit  
14 131, please.

15 Earlier you had noted that you had read  
16 the bill that created Washington Learns. Looking at  
17 Exhibit 131, which is Senate Bill 5441, is that the  
18 bill that created Washington Learns?

19 A. Yes.

20 MR. AHEARNE: Your Honor, I'd like to move to  
21 admit this exhibit.

22 THE COURT: 131 is offered.

23 MS. BASHAW: No objection.

24 THE COURT: 131 is admitted.

25 EXHIBIT ADMITTED

1 BY MR. AHEARNE:

2 Q. Is part of what the Washington Learns was  
3 tasked to do in this bill involve a K-12 finance study?

4 A. Yes.

5 Q. And is that the K-12 finance study that's  
6 described on -- if you look at the bottom of the page,  
7 page three, line 18, it talks about "a comprehensive  
8 K-12 finance study."

9 Do you see that?

10 A. Yes.

11 Q. And were you, as part of the K-12 Advisory  
12 Committee, at all involved with the K-12 finance study?

13 A. There were a number of groups, particularly  
14 Picus and Odden, that provided a great deal of the work  
15 in terms of the finance study, and then that was  
16 forwarded on to the committee.

17 Q. Okay. So the K-12 finance study that was  
18 done under the Washington Learns bill, that was the  
19 Picus and Odden studies?

20 A. There was the understanding, at least in many  
21 of our judgment, that it was the responsibility of our  
22 advisory committee to provide the comprehensive finance  
23 study utilizing the assistance of groups like Picus and  
24 Odden. As a result of that, our final proposal did  
25 provide specific recommendations.

1 Q. Okay. You're referring to the Picus and  
2 Odden studies. I'd like you to look at trial Exhibits  
3 364 and 365, please. Handing you exhibits 364 and  
4 365.

5 Are those two Picus and Odden studies  
6 that was done as part of the K-12 finance study of  
7 Washington Learns?

8 A. Yes.

9 Q. And could you just briefly identify which one  
10 is 364 and which one is 365 -- or just the title.

11 A. 364 is -- let's see. I want to make sure.  
12 364 is titled "An Evidence-Based Approach to School  
13 Finance Adequacy in Washington Prepared for the K-12  
14 Advisory Committee of Washington Learns."

15 365 is "Washington Learns Successful  
16 District Study Financial Report Prepared for Washington  
17 Learns."

18 Q. And when you were referring to the Picus and  
19 Odden studies with numbers, were those trial Exhibits  
20 364 and 365?

21 A. Yes.

22 Q. And, as you sit here today, do you recall  
23 either one of those being more important than the other  
24 one?

25 A. No.

1       Q.     And as a member of the K-12 Advisory  
2 Committee, is it your understanding that these studies  
3 were the Comprehensive K-12 Finance Study that is  
4 directed by Section Three of Senate Bill 5441?

5       A.     That I cannot answer specifically. These  
6 were prepared for the K-12 Advisory Committee. Whether  
7 or not they were specifically what was referenced in  
8 the legislation or not, I'm not sure. I believe it was  
9 our responsibility, as a K-12 Advisory Committee, but  
10 this was a lot of the work that was used as we  
11 reflected on exactly what our recommendation would be.

12       Q.     All right. Okay. And the Picus and Odden  
13 studies, were those the same studies that were also  
14 used as part of the Basic Education Finance Task Force  
15 work?

16       A.     They were brought to our attention. We did  
17 reference them in some of our analysis, but we also  
18 looked at other studies as well.

19       Q.     Turning back to Exhibit 131, which is Senate  
20 Bill 5441 on the last page, line 15, it states, "The  
21 final report and recommendation of the Steering  
22 Committee shall be submitted to the legislature by  
23 November 15, 2006.

24                     Do you see that?

25       A.     I'm sorry. Which exhibit?

1 Q. We're on Exhibit 131, which is Senate Bill  
2 5441.

3 A. Well, it seems to be -- I seem to have a  
4 number of these here. Okay. I'm sorry. Your question  
5 again?

6 Q. Page five.

7 A. Okay.

8 Q. Bottom of five, line 15 through 16.

9 A. (Reading.)

10 Q. Where it states, "The final report and  
11 recommendations of the Steering Committee shall be  
12 submitted to the legislature by November 15, 2006."

13 Do you see that?

14 A. Yes, that is the Steering Committee as  
15 opposed to one of the advisory committees.

16 Q. Right. And was that final report issued?

17 A. Yes.

18 MR. AHEARNE: And, Your Honor, I forget, if I  
19 didn't move to admit 365 and 364, I move to admit them.

20 MS. BASHAW: No objection, Your Honor.

21 THE COURT: 364 is admitted, and 365 is  
22 admitted.

23 EXHIBITS ADMITTED

24 BY MR. AHEARNE:

25 Q. Handing you trial Exhibit 16.

1                   Is that the final report of the  
2 Washington Learns study?

3           A.     It is.

4           MR. AHEARNE:  And, Your Honor, I move to  
5 admit Exhibit 16.

6           THE COURT:  Exhibit 16 is offered.

7           MS. BASHAW:  No objection.

8           THE COURT:  Exhibit 16 is admitted.

9                   EXHIBIT ADMITTED

10  BY MR. AHEARNE:

11          Q.     And is that the final report that is referred  
12 to in Senate Bill 5441?

13          A.     It is.

14          Q.     And is there a place in the Washington Learns  
15 final report that does provide recommendations on how  
16 the state can best provide stable funding for student  
17 learning?

18          A.     It has been a while since I looked at it so I  
19 did not know the answer in terms of specifics.  I'd be  
20 glad to look at it, but --

21          Q.     Okay.  Well, actually, if I could ask you to  
22 turn to page 51, please, of the report which is the  
23 Minority Report by Representative Glenn Anderson.

24                   Do you see that?

25          A.     Yes.



1       Q.     And starting with the italics about two  
2 thirds of the way down my page, it says, "My greatest  
3 concern is that the Steering Committee failed to meet  
4 the mandate given by the authorizing legislation, and  
5 largley dodged the difficult issue in K-12 finance  
6 whose resolution many legislators and members of the  
7 K-12 community intended as the study's highest  
8 priority."

9                     Do you see that?

10       A.     I do.

11       Q.     Then it goes on to note that, "the only  
12 specific work product required of the Committee by the  
13 authorizing legislation was prescribed in Section  
14 3(1)(d) of the act: --" and then there's brackets,  
15 "[The steering committee] shall develop recommendations  
16 about how the state can best provide stable funding for  
17 student learning for young children, students in public  
18 schools, and students in the public colleges and  
19 universities." Then it goes on to state, "Nowhere in  
20 the report is that mandate addressed."

21                     Do you see that?

22       A.     I do.

23       Q.     And do you agree with that?

24       A.     Yes.

25       Q.     Now, you had mentioned that there were

1 specific numbers included or recommendations made by  
2 the K-12 Advisory Committee; is that correct?

3 A. Yes.

4 Q. And do those specific numbers appear anywhere  
5 in the final report of the Washington Learns?

6 A. No.

7 Q. Now, you had mentioned also another study  
8 that you were involved in or a report, something about  
9 Building Bridges; is that correct?

10 A. Yes.

11 Q. Would you briefly explain what that was?

12 A. The Building Bridges Task Force was a task  
13 force put together to review and address the issue of  
14 dropout prevention and retrieval.

15 Q. And what was the approximate time frame of  
16 that task force that you were involved in?

17 A. Last year, although it continues.

18 Q. If I can ask you to please look at Exhibit  
19 215, please.

20 A. Okay. I have it here.

21 Q. Could you identify what Exhibit 215 is,  
22 please?

23 A. It is a report to the legislature. It  
24 provides the findings and recommendations of the  
25 Building Bridges state level work group on dropout

1 prevention, intervention, and retrieval.

2 Q. And you were on the Steering Committee of  
3 this study?

4 A. I was.

5 MR. AHEARNE: Your Honor, I move to admit  
6 Exhibit 215, please.

7 MS. BASHAW: No objection.

8 THE COURT: Exhibit 215 is admitted.

9 EXHIBIT ADMITTED

10 BY MR. AHEARNE:

11 Q. What was the purpose of this report, this  
12 Exhibit 215?

13 A. A great deal of focus, as far as K-12  
14 education is concerned, is on the students who remain  
15 through the 12th grade. For many of us, the issue is  
16 not only for those students who remain through the 12th  
17 grade, it is also to, number one, focus on those that  
18 drop out, and, two, to put as a priority strategies to  
19 do everything we can to ensure that we minimize the  
20 dropout rate as far as our state is concerned.

21 And the goal behind this was to review  
22 and develop strategies that would ensure that we were  
23 giving that the priority it deserves.

24 Q. Okay. Were there any -- if you can briefly  
25 describe whatever work, if any, was done to come up

1 with the conclusions and findings in this report,  
2 whether they're work groups or --

3 A. There was a work group prepared and managed  
4 by the staff of the Office of the Superintendent of  
5 Public Instruction that met on a regular basis. It was  
6 a very large work group that included representatives  
7 from our skills centers, representatives from community  
8 groups, representatives from other schools. So it was  
9 a fairly hands-on work group that were basing their  
10 comments and recommendations, in many cases, based on  
11 their own experience.

12 Q. Okay. If I can ask you to turn to Arabic  
13 page one, bottom right-hand corner under Executive  
14 Summary, please.

15 If you can, please, just read that first  
16 paragraph for me, please.

17 A. Beginning with state policy makers?

18 Q. No. In the 2006-'07 school year.

19 A. Oh. "In the 2006-2007 school year, 20,122  
20 Washington students dropped out of school. These  
21 disconnected youth now face multiple barriers to  
22 becoming successful adults. They are far more likely  
23 than their peers to engage in substance abuse, inflict  
24 harm on others and themselves, suffer mental health  
25 problems, and live on our streets. They are also more

1 likely to become the inmates in our prisons, the  
2 recipients of government welfare, and the unemployed  
3 and under-employed workers in our committee. Worse  
4 yet, they are likely to pass on a heritage of under  
5 education and poverty to their children."

6 Q. Now, is that a fair summary of the finding or  
7 conclusion of this report?

8 A. Yes.

9 Q. And what is that based on?

10 A. The Office of the Superintendent of Public  
11 Instruction does a fairly good job of keeping records  
12 or data on those young men and women that drop out of  
13 the system. Unfortunately, the conclusions of this  
14 first paragraph are not unique to this study. When you  
15 looked at the Gates Foundation study exactly on the  
16 same issue of dropout prevention, they, too, on a  
17 nationwide basis recognized that there are severe  
18 consequences, both economically and personally, to the  
19 students who drop out.

20 Q. And if I could ask you to turn to page two  
21 under Build Local Dropout Prevention, and the first  
22 sentence says, "Currently school districts lack the  
23 time and resources to sufficiently address the drop out  
24 issue."

25 Do you see that?

1       A.     I do.

2       Q.     Is that one of their conclusions of this  
3 report?

4       A.     Yes.

5       Q.     And what was that based on?

6             MS. BASHAW:  Your Honor --

7             THE COURT:  One moment.  What is your  
8 objection?

9             MS. BASHAW:  Your Honor, I'm going to object  
10 to having either Mr. Ahearne or this witness just read  
11 statements into the record without any pending  
12 question.  It's leading and it's improper.

13            MR. AHEARNE:  To be able to ask a question  
14 about whether a statement is true, I need to say the  
15 statement.  And with respect to leading, remember, this  
16 is the witness that Mr. Clark represents.  I think I  
17 should be able to quote the sentence that I'm asking  
18 him a question about.

19            THE COURT:  Are you saying this is an adverse  
20 witness or hostile witness?

21            MR. AHEARNE:  Under 611, it is a witness  
22 affiliated with opposing party.

23                    Even I'm old enough to remember what it  
24 used to be.  It had to be a director or officer of, you  
25 know, the corporation.

1 THE COURT: Ms. Bashaw?

2 MS. BASHAW: Well, Your Honor, as the State  
3 of Washington, Mr. Clark, of course, was required to be  
4 at the deposition for Representative Priest, but that  
5 does not make Representative Priest Mr. Clark's  
6 client. He is not a speaking agent on behalf of the  
7 State of Washington, and he's being called by  
8 Mr. Ahearne in the direct part of his case, and so I  
9 don't believe that Mr. Ahearne has established him as a  
10 hostile witness for the purposes of being able to ask  
11 leading questions.

12 THE COURT: Well, let's focus on the question  
13 which is before the court right now, and I think the  
14 proper objection is that the report speaks for itself.  
15 I think the question that was pending was whether that  
16 was one of the conclusions in the report. And I guess  
17 unless there's further questioning with respect to that  
18 conclusion, which would make it a foundational  
19 question, then the report speaks for itself.

20 So if you're just asking that as a  
21 foundation to other questions --

22 MR. AHEARNE: Your Honor, I am going to be  
23 asking him what the basis is -- I mean, clearly the  
24 report says it. I'd like to know what the basis is for  
25 the report to say it.

1           THE COURT: Then the objection is overruled.  
2 I think that the report speaks for itself. I think  
3 he's simply establishing that's what your report says.  
4 He could have just asked the witness what does the  
5 report say at this line and he could state what the  
6 report says at that line. The objection is overruled.  
7 The court finds that the question is foundational.

8           Okay. Let's get back to the question.

9           MR. AHEARNE: I don't want to go against what  
10 you just said, but I'm not quite sure --

11          THE COURT: I overruled the objection.

12          MR. AHEARNE: And now I think I've forgotten  
13 where I was with my question. I think I read a  
14 statement "Currently school districts lack the time and  
15 resources to sufficiently address the dropout issue,"  
16 and my question, I think, was, what the basis is for  
17 that statement.

18          THE COURT: No. Your question was, was that  
19 one of the conclusions that the report.

20 BY MR. AHEARNE:

21       Q.     Okay. Is that one of the conclusions?

22       A.     Yes.

23       Q.     And do you have an understanding of what the  
24 basis was for that conclusion?

25       A.     The basis of that conclusion was based on



1 discussions as well as -- and I use the word in quotes,  
2 "testimony," by the major players who were involved in  
3 the work group, which, as you can see in the appendix,  
4 is a very comprehensive list of representatives from  
5 throughout the educational system here in Washington  
6 State.

7 Q. And this is the study that you were on the  
8 Steering Committee for make any findings or conclusions  
9 with respect to the consequences to society as a whole  
10 of individuals dropping out. And if you -- if it  
11 refreshes your recollection, the top of the page -- I'm  
12 trying to avoid Ms. Bashaw's --

13 A. It is difficult for those of us who work in  
14 the world of education to limit our comments to a  
15 specific study when we are, in fact, involved in so  
16 many studies that often are reflective of exactly the  
17 same conclusion.

18 As I said in my deposition, in 1968 when  
19 I graduated from high school, if a person had dropped  
20 out, it was common knowledge that you could get a job  
21 in an orchard in Brewster or on a ranch and maybe have  
22 a small home and a family and you would not have  
23 significant consequences. Would you have been in as  
24 good a shape if you had gone on to high school and  
25 college? No, but there were alternatives.

1           Every study that I've seen, whether  
2 through this particular task force or independently,  
3 the Gates Foundation and others that have addressed the  
4 dropout prevention, all of them conclude that the  
5 impact on students today is much higher than it was in  
6 the past. That's not surprising when you look at the  
7 fact that for almost any job today, the requirements  
8 are so much greater, which then parallels all the other  
9 discussions we're having about what our education  
10 system should provide and why we are asking our  
11 education system to do more.

12           There is a logical tie that says if  
13 you're asking your educational system to do more to  
14 prepare students to either be in the workplace, as in  
15 1209 in those four points, or going on to additional  
16 education. It is not surprising that if you're saying  
17 that there are greater requirements for them to be  
18 successful, that if you do not complete high school and  
19 are a dropout, then the consequences on you will be  
20 much greater than they were before. And the studies  
21 reflect that.

22       Q.     Okay.

23       A.     Sorry. That was a long answer, but these two  
24 tie together.

25       Q.     All right. If I can ask -- if we can now

1 move back to some of the work that you did with the  
2 task force. I'd like you to look at Exhibit 206,  
3 please. Is that in that notebook?

4 A. That is in this notebook.

5 Q. Can you identify what Exhibit 206 is?

6 A. 206 is a recommendation made by six  
7 legislators who were part of the Basic Education  
8 Finance Task Force in terms of what should be  
9 considered in the final product by the task force.

10 Q. Now, this is a form of a PowerPoint that you  
11 presented?

12 A. Yes.

13 MR. AHEARNE: Your Honor, according to the  
14 joint statement, there's no objection to this so I move  
15 to admit Exhibit 206.

16 THE COURT: Any objection to 206?

17 MS. BASHAW: No objection.

18 THE COURT: Exhibit 206 is admitted.

19 EXHIBIT ADMITTED

20 BY MR. AHEARNE:

21 Q. When you refer to the six legislators, those  
22 are the six that are listed on the first page of  
23 Exhibit 206?

24 A. Yes. Representative Anderson, Hunter,  
25 Jarrett, Sullivan, Senator Tom, and myself.

1 Q. Okay. And, actually, it shows Jarrett as  
2 being a D. He used to be an R, right?

3 A. He did.

4 Q. And Senator Tom, he used to be an R as well,  
5 right?

6 A. Yes.

7 Q. Okay. What kinds of groups, if any, did you  
8 present this PowerPoint to?

9 A. This PowerPoint, I believe, was the one that  
10 was presented to many parent-teacher associations as  
11 well as presented to the Basic Education Finance Task  
12 Force as well.

13 Q. What was the general purpose of this  
14 PowerPoint presentation?

15 A. The idea behind the PowerPoint was to provide  
16 an update to groups who had expressed an interest and  
17 had ownership in the issue in terms of what the  
18 recommendations and thoughts at this date when this  
19 PowerPoint was presented, was of the six members who  
20 were involved in the presentation or putting together  
21 the presentation.

22 Q. All right. If I could ask you to turn to the  
23 second page, which should have in the corner a Bates  
24 number WSIPP0084109, or am I having the same problems  
25 Mr. Clark had?

1       A.     Yes, that's fine. What's the problem?

2       Q.     Yes. I just want to make sure my number's  
3 the same.

4                   Do you have that slide in front of you?

5       A.     I do.

6       Q.     What's the general purpose for this slide?

7       A.     The general purpose for this slide was to do  
8 two things. The first was to identify the enormity of  
9 the problem, and the second was to underscore the  
10 importance of creating a sense of urgency when it came  
11 to this solution.

12      Q.     And you refer to a sense of urgency. Why do  
13 you believe a sense of urgency is important?

14      A.     I believe very strongly that all means all  
15 when it comes to providing an opportunity for our  
16 children to be successful. Every day, every week,  
17 every month, every year that we do not address this  
18 issue means that additional students will drop out, and  
19 we just had in prior testimony 20,000 a year, as well  
20 as students who will not be able to reach their  
21 potential or meet the requirements of society, which is  
22 required under 1209.

23                   It's easy to talk about numbers. It's  
24 easy to talk about statistics, but when it comes right  
25 down to it, every life lost is something that is very

1 real, and you see it -- those young men and women  
2 running around through our cul-de-sac. You see them  
3 maybe playing basketball, and maybe not, across the  
4 street. That's one of the great tragedies, in my  
5 judgment, of this long debate and long debate and delay  
6 of addressing the issue of education finance is that  
7 we're not talking about numbers. We're talking about  
8 real-world kids who, if we don't give them the  
9 opportunity to be successful, then we all pay a price,  
10 and the price is not only to the students.

11               In every newspaper article that we have  
12 heard or seen recently, there is a long debate about  
13 the budget, the fact that we are facing entire -- very,  
14 very difficult decisions as far as state funding of  
15 important services is concerned. I will tell you,  
16 without reservation, that we will not be able to  
17 balance the budget in the future unless we address  
18 education issues and education financing today.

19               The cost is not just to children and  
20 their lost economic opportunity. The cost to all of us  
21 is seeing additional dollars for DSHS. It's seen in  
22 additional dollars for corrections. The problem with  
23 cliches, like an ounce of prevention is worth a pound  
24 of cure, the problem with those type of cliches are  
25 they are, in fact, true. And education finance is the

1 paramount example, coincidentally, given the paramount  
2 duty that we face in our Constitution of providing  
3 ample uniform funding. It is the paramount example of  
4 a failure to do that ounce of prevention resulting in  
5 the pound of cure.

6 Q. Okay. If I can go through, briefly, the  
7 bullet point you have on the slide of your public  
8 presentation. It refers to, "Part of the problem being  
9 the 40th, the 45th, and the people funding  
10 nationally."

11 Do you see that?

12 A. I do.

13 Q. Why are you presenting that to the public as  
14 being a problem?

15 A. An argument is always made that there is more  
16 than enough money, and there's a legitimate debate  
17 about what are necessary resources to achieve our  
18 goal. The reason this particular statistic was put  
19 forward was to at least remind the people in the  
20 audience that it is a legitimate question in terms of  
21 whether or not we are funding education adequately or  
22 not. Clearly, different states have different  
23 challenges. There's no question about that. Clearly,  
24 different states may even have different requirements.  
25 There's no question about that.

1                   But this was raised as a reminder that  
2 10 to 15 years ago we were, in fact, very competitive  
3 as far as education funding is concerned and suddenly  
4 we are not. And so, as a result of that, this issue  
5 was raised, not only to suggest that we are under  
6 funding, but, more importantly, to just use as an  
7 example, that it's not the good ol' days and that, in  
8 fact, we have to have some kind of an understanding  
9 that this is a legitimate question that must be raised.

10       Q.     Next bullet we'll talk about, "Graduation  
11 rate less than 75 percent."

12                   What, if anything, does that have to do  
13 with there being a problem?

14       A.     Again, when we talk about -- it's easy to  
15 talk about the success stories. It's more important to  
16 talk about the 25 percent who do not graduate in a  
17 timely manner because, as I suggested, either through  
18 drop out or long-delayed graduation, they become --  
19 there's a significant cost to them as well as to all of  
20 us.

21       Q.     Next bullet in your public presentation  
22 you're saying there are inadequate graduation  
23 requirements.

24                   What do you mean by that?

25       A.     The State Board of Education has looked at



1 and done a fairly thorough review of what's necessary  
2 for students to be successful in the future, either  
3 through a pathway of higher education or through a  
4 pathway of career in technical education.

5           Under current state law, we require 19  
6 credits to graduate, and those credits are identified.  
7 Some local school districts may have more but none can  
8 have less. The State Board of Education, recognizing  
9 that under the new societal requirements that we have,  
10 we should be moving to a core 24 meaning that there  
11 should be 24 credits to graduate.

12           The largest increase in those graduation  
13 requirements would be primarily in the areas of math  
14 and science or in applied math and science through a  
15 career in technical education pathway.

16       Q.     Now, did you hear any -- as part of the task  
17 force work and the hearings and the presentations you  
18 heard, was there any discussion about remediation  
19 required for high school students?

20       A.     One of the challenges we face that is  
21 unrecognized is the fact that, for students going to  
22 our community colleges, we are at around 51 percent  
23 requiring remediation in terms of either reading, ELL,  
24 or math. And so, even though they are meeting the  
25 so-called WASL requirements, they may, in fact, not be

1 prepared for the step that we all want them to have the  
2 ability to take, which is going on to college.

3 Now, this is not at the University of  
4 Washington. This isn't at Western. But, again, these  
5 are the students we worry about the most. They're the  
6 ones that are going on to the community colleges, and  
7 there's a very high remediation rate.

8 The reason that's important, number one,  
9 those students have to pay the tuition but they don't  
10 get the credit, number one. Number two is because we  
11 obviously subsidize, as a state, those students who are  
12 taking those courses. We're having to pay twice, in  
13 essence --

14 MS. BASHAW: Your Honor --

15 THE WITNESS: -- for those students to get  
16 the basic as far as --

17 MS. BASHAW: I apologize.

18 THE WITNESS: -- ELL and math is concerned.

19 THE COURT: Hold on one moment.

20 MS. BASHAW: I apologize. There's no  
21 foundation for this witness to be testifying about  
22 remediation and failure in math and what's going on in  
23 the community colleges. There's a lack of foundation.

24 THE COURT: So your objection is lack of  
25 foundation; is that correct?

1 MS. BASHAW: Correct.

2 THE COURT: All right. Mr. Ahearne?

3 MR. AHEARNE: Can I ask a foundation question  
4 then?

5 THE COURT: Please.

6 BY MR. AHEARNE:

7 Q. You're a member of Washington Learns K-12  
8 Advisory Committee, right?

9 A. Yes.

10 Q. And you're a member of the State's Joint Task  
11 Force.

12 A. Yes.

13 Q. And in the process of -- and as well as other  
14 educational-related studies as well, right?

15 A. Yes.

16 Q. And you're also involved in the Education  
17 Committee in the legislature, correct?

18 A. Yes.

19 Q. And you're also involved in the Federal Way  
20 School District, correct?

21 A. Yes.

22 Q. And based on your first-hand, personal  
23 experience, do you have any knowledge one way or the  
24 other as to whether remediation is required for  
25 students who meet our graduation requirements and go on

1 to the community colleges?

2 A. The answer is yes.

3 MS. BASHAW: I still have the same  
4 objection. He's not been identified as an expert  
5 witness in this case. Whatever it is that he knows, he  
6 knows because other people have said it and told it to  
7 him, so it's hearsay. And this last question about do  
8 you have personal knowledge, I'm not sure that we've  
9 actually established that he has personal knowledge.  
10 He's not a teacher at the community colleges, he's not  
11 on any of the boards related to community colleges, so  
12 I'm not sure what the basis is that he has core  
13 personal knowledge.

14 MR. AHEARNE: Your Honor, I think his  
15 experience that he outlined establishes the foundation  
16 for his personal knowledge. And my recollection of  
17 601, 2 -- I'm not sure. Whichever the 600 one is,  
18 personal knowledge can be established by the witness's  
19 own testimony, and I think his testimony established  
20 that.

21 MS. BASHAW: Again, his knowledge is based on  
22 hearsay. Had doesn't have the particular expertise in  
23 remediation or teaching or any of these things, and  
24 so -- and he's not been identified as an expert in this  
25 case in order to render opinions under 701 -- or 703.

1 Excuse me.

2 MR. AHEARNE: Okay. So both of us have to  
3 pull out the rules. We have the ones and twos.

4 THE COURT: All of us are pulling out the  
5 rules.

6 (Pause in proceedings.)

7 THE COURT: So if I understand the objection,  
8 Mr. Ahearne, it's that the remediation information  
9 comes from a third-party source, which is hearsay.

10 MR. AHEARNE: And my response would be, as a  
11 member of the state's task force investigating this,  
12 with respect to the hearings and the work and the  
13 research, not only the Basic Education Task Force, but  
14 also with respect to Washington Learns, also with  
15 respect to the education committee he sits on, as well  
16 as his work with the Federal Way School District  
17 firsthand, that gives him the personal knowledge of  
18 what the situation is. That's based on his  
19 perception. That's an issue in this case based on his,  
20 you know, first-hand perceptions, but I think that does  
21 qualify under personal knowledge under 602, as well as  
22 to the extent -- you know, we have not retained the  
23 state's -- Mr. Clark's client as our expert, that is  
24 true. So he's not a retained expert under 702. But,  
25 clearly, his explanation of his inferences and opinions

1 based -- that are rationally based on his perceptions  
2 are helpful with respect to the determination of facts  
3 in this case, and it's not -- you know, we're not  
4 asking for testimony with respect to, you know, being a  
5 scientist or engineer or things like that.

6 MS. BASHAW: But, again, Your Honor, it's  
7 what he's hearing from other people. So he's just  
8 merely relaying other people's perceptions that have  
9 come before him by whatever information it is that  
10 they're providing as to their perception.

11 Both sides have designated witnesses  
12 from the Community and Technical College Board, and  
13 perhaps these questions are more appropriate for those  
14 people who are actually on the line doing that  
15 service. This witness only knows what he knows based  
16 on what other people have told him. He doesn't have  
17 particular expertise in this area.

18 THE COURT: Well, I think that Ms. Bashaw may  
19 be correct on the fact that this is -- that this is  
20 hearsay. I think that a lay opinion as under 701 is  
21 talking about personal observations and reaching  
22 conclusions from those observations and expressing it  
23 in the form of opinion, such as the vehicle was  
24 traveling fast. That's an opinion. It's not a fact.  
25 It's an opinion. It's based on the person's

1 observations. It was difficult to see. Again, it's an  
2 opinion. This is not based on his personal  
3 observations. So I do have to exclude his testimony  
4 regarding remediation.

5 MR. AHEARNE: Okay. Would the ruling stay if  
6 I asked for his conclusion as a member of the Basic  
7 Education Task Force on the research and data that was  
8 presented to the task force?

9 THE COURT: I think that would be his lay  
10 opinion.

11 MR. AHEARNE: That will be my question then.

12 BY MR. AHEARNE:

13 Q. Based on research and data that was presented  
14 to you as a member of the State's Basic Education  
15 Finance Joint Task Force, do you have any knowledge as  
16 to whether remediation required of high school students  
17 when they enter the community college system?

18 A. Yes.

19 Q. And what is that?

20 A. That 50 percent require remediation.

21 MS. BASHAW: Your Honor, we're right back to  
22 the same place.

23 THE COURT: I didn't realize it was going to  
24 relate to remediation. I thought it was going to  
25 relate to a different issue.

1                   I think with regard to remediation,  
2 again, it is based on hearsay and it's really asking  
3 him for, I think, an expert opinion.

4                   I think you can ask him what the report  
5 stated on that, if there's anything in there about  
6 remediation.

7                   MR. AHEARNE: I think I have consumed, oh,  
8 like, 10 very precious minutes here, so I will move on,  
9 Your Honor.

10                  THE COURT: I think that will probably be  
11 best.

12                  MS. BASHAW: Your Honor, we'd ask that the  
13 testimony be stricken from the record.

14                  THE COURT: I will not consider that  
15 testimony. That will be stricken with regard to the  
16 50-percent figure.

17 BY MR. AHEARNE:

18       Q.       Moving on with the slide of your presentation  
19 here under, "What's the problem," and the statement  
20 that says "horrible achievement gap."

21                       Do you see that?

22       A.       I do.

23       Q.       What do you mean by that?

24       A.       The legislature has recognized, and, in fact,  
25 has set up an achievement gap group to examine the



1 challenges that have occurred as a result of the fact  
2 that, particularly, they are high-poverty students.  
3 And in many cases, immigrants and students of color are  
4 not performing on every test at the same level. They  
5 are, in fact, performing at a much lower rate than  
6 other students. And so, as a result of that, we are  
7 not providing the resources necessary to close that  
8 gap.

9 Q. Why do you use the word horrible with respect  
10 to the achievement gap?

11 A. Because the numbers are startling in terms of  
12 the difference between various groups, particularly the  
13 high poverty versus those who come from other areas  
14 with higher income.

15 Q. And from what you've seen, is there any  
16 negative impact of having an achievement gap like that?

17 MS. BASHAW: Again, I'm going to object to  
18 the question, lack of foundation. He's not an expert  
19 in this case. He can't render opinions about things  
20 for which he has no personal knowledge.

21 MR. AHEARNE: This time I think I  
22 specifically said from what you've seen.

23 MS. BASHAW: Yeah, but --

24 THE COURT: I'm going to allow it. I think  
25 that this witness has had sufficient experience both in

1 the school district, on the task force, and in the  
2 legislature to make personal observations about the  
3 consequences of the achievement gap. Overruled.

4 THE WITNESS: The impact of the achievement  
5 gap is -- I guess horrible is a word, I'm not sure,  
6 that applies. Based on my own personal experience, it  
7 may be worse than that.

8 The fact is that the impact is not only  
9 on the student but also on friends. It's also on  
10 family, and ultimately it's on the next generation.

11 BY MR. AHEARNE:

12 Q. What do you mean by the next generation?

13 A. I mean that where students have been -- I  
14 apologize, Your Honor. I understand I'm not an expert,  
15 Your Honor, and I'm --

16 THE COURT: Say what you want to say and if  
17 there's an objection, there will be an objection.

18 THE WITNESS: The studies are also clear that  
19 show that, unfortunately, where there has been -- that  
20 bad habits continue from one generation to another.  
21 That lack of success continues from one generation to  
22 another.

23 In my personal experience in Federal  
24 Way, I have seen that where we have not done  
25 intervention that, unfortunately, when it comes to not

1 only student achievement but also just success in life,  
2 it goes from one generation to another if we are, in  
3 fact, not successful in providing that education that's  
4 necessary to break that cycle.

5 BY MR. AHEARNE:

6 Q. The next bullet in your public presentation.  
7 You state, "Illogical distribution of funds between  
8 districts."

9 Do you see that?

10 A. I do.

11 Q. Okay. What do you mean by that?

12 A. The issue here is the fact that, at least  
13 according to Judge Heavy in the Federal Way lawsuit,  
14 there is an irrational basis for our current funding  
15 formula when it comes to teacher salaries, classified  
16 salaries, and administration salaries.

17 Q. If I can now just pretend there was no  
18 lawsuit, the Judge Heavy thing you are referring to,  
19 put that totally on a different page.

20 From what you've seen in working with  
21 the Federal Way School District, on the state's Basic  
22 Ed Task Force, on the state's K-12 Advisory Committee,  
23 all the legislative committees you've served on, et  
24 cetera, from what you've seen, is there an illogical --  
25 have you seen an illogical distribution of funds

1 between districts?

2 A. Yes, absolutely. There is no rational basis  
3 for the state's current allocation system. And one can  
4 look --

5 Q. Why do you say that?

6 A. One can look at, for example, an Everett  
7 teacher with the same amount of experience in terms of  
8 longevity on the grid, which is the LEAP schedule --

9 Q. And the LEAP is the same LEAP entity that  
10 you --

11 A. Yes.

12 Q. -- were with, right?

13 A. Yes.

14 Q. Okay.

15 A. As well as education, for example a masters,  
16 and that teacher will have a \$1,700 higher allocation  
17 to the Everett School District than Federal Way even  
18 though they have the same experience, they have the  
19 same education, they are in the same SMSA --

20 Q. And when you say SMSA, what do you mean?

21 A. The same basic general population area, which  
22 is used often as a gauge as far as cost of living, for  
23 example.

24 Q. Right. Statistical Metropolitan Area?

25 A. Yes. And the same type of disparity occurs

1 in the allocation for classified staff as well as  
2 administrative staff of which the Federal Way School  
3 District is a direct -- is directly impacted in a very  
4 negative way.

5 Q. And when you say that, what do you mean?

6 A. It means that the state, for the same  
7 teachers, the same classified staff, and the same  
8 administrators allocate a different amount of money for  
9 each one of those areas of responsibility.

10 That becomes particularly important in  
11 the case of Federal Way where we are not receiving as  
12 much for classified allocation because we are, in fact,  
13 having to pay market, which is more than the  
14 allocation.

15 Q. If I may interrupt for a second. You say you  
16 to pay have market, which is more than the allocation,  
17 what's the market you're referring to and what's the  
18 allocation you're referring to?

19 A. The state allocates -- I'm going to choose a  
20 number for a -- there's a formula of one --

21 Q. Are you talking about the program funding  
22 formula?

23 A. There's a program funding formula that we  
24 provide for classified salaries, two things. One,  
25 classified for every 58 students, and then, depending

1 on the district, once you've identified the number of  
2 students, divide it by 58 and you come up with a number  
3 of classified employees that we will allocate as part  
4 of our basic budget.

5 Q. And when you're saying we, you mean the  
6 state?

7 A. Meaning the state. Sorry.

8 Then -- so those dollars are allocated.  
9 Unfortunately, the current allocation dollars that go  
10 from the state to the local school district based on  
11 that formula do not pay for the classified staff that  
12 are hired by the school district because the market,  
13 meaning the area around the school district in which  
14 people are available to work, whether it's working as a  
15 security officer, whether it's working as a person that  
16 does cleaning up the toilets, and other work around the  
17 buildings, all those are, in most cases, having to be  
18 paid more than the allocation amount. And so, as a  
19 result of that, the Federal Way School District and  
20 other districts are penalized by that approach and so  
21 it is not logical.

22 Q. Okay. From your experience on, for example,  
23 the LEAP Committee -- Commission -- the LEAP group, how  
24 were the allocation amounts determined? For example,  
25 how much does Federal Way get per classified employee

1 as opposed to Everett?

2 A. Allocation amounts are based primarily on  
3 historical approach. In a --

4 Q. When you say historical approach, what do you  
5 mean?

6 A. In a response to some of the school funding  
7 issues, an attempt was made by -- in cases, an attempt  
8 was made by the legislature to begin the process of  
9 bringing up everyone to a reasonable basis in the minds  
10 of that legislature. Some were receiving more and so  
11 they were grandfathered. Those districts that were  
12 receiving more, when you put a COLA, for example, or  
13 Cost-of-Living Adjustment, needless to say, when you  
14 have a higher allocated amount that has been  
15 grandfathered versus the basic dollars, that every time  
16 you put a COLA on the larger number and the smaller  
17 number, it tends to expand the gap. And, as a result  
18 of that, in many cases the gaps have been fairly  
19 pronounced based on the experience of the Federal Way  
20 School District and other school districts.

21 Q. Okay. When you're referring to history, is  
22 that -- originally when those amounts were set, for  
23 example, on the LEAP schedules, is that what some  
24 people refer to as the snapshot that was taken?

25 A. I don't know.

1 Q. All right. Do you have an understanding of  
2 how --

3 A. I understand the concept. I've never heard  
4 people call it the snapshot.

5 Q. Okay. Well, what's the concept on how those  
6 numbers were originally set? Was it recently or --

7 A. No. They were set quite a while ago. As  
8 part of a long discussion. There had been efforts by  
9 the legislature to close that gap over the last several  
10 years but not this budget year. And so, currently, 260  
11 school districts are at one level. That means that 35  
12 other school districts receive higher allocations.

13 Q. Is that for the same job?

14 A. It's the same classified staff person. The  
15 result is that we are currently -- to bring all of them  
16 up to an equal basis if the legislature decided, would  
17 cost approximately \$226 million a year, and to make up  
18 the difference between the current allocation amount  
19 for classified and what school districts around the  
20 state are paying, that's the second gap market to what  
21 they are -- to the allocation. It's approximately  
22 another \$140 million for a total of about \$366 million  
23 a year.

24 Q. Okay. On your illogical distribution of  
25 funds between districts, does that entail anything with



1 respect to the NERC's or transportation or anything  
2 like that?

3 A. When it comes to transportation, the  
4 legislature has had two studies which indicate that  
5 the -- that we are currently under funding, under our  
6 law, transportation provided by local school  
7 districts. One of them was the Joint Legislative Audit  
8 Review Committee.

9 Q. Is that called JLARC?

10 A. What is called JLARC, which was reviewed by  
11 the Education Appropriations Committee that I am on and  
12 also a subsequent study was done by another group  
13 tasked by the legislature to review whether or not we  
14 were "adequately funding" and the answer was no.

15 The result is, at least according to the  
16 Office of the Superintendent of Public Instruction,  
17 again, and information provided to me as a legislature  
18 and others, is that we are short approximately \$125  
19 million a year -- or underfunding transportation by  
20 \$125 million a year based on those studies.

21 Q. And does NERC's fit into this at all or is  
22 that --

23 A. NERC's are Non-Employee Related Costs. Now,  
24 what I've been talking about so far, particularly  
25 classified -- certificated staff and the illogical

1 nature, classified and the illogical nature,  
2 transportation and the illogical nature, and now NERC's  
3 and the illogical nature, are all under the definition  
4 of basic education dollars as opposed to categorical  
5 grant programs so they're under the definition either  
6 by statute or under the DORN 2 (phonetic) decision.

7 Q. And you're talking about these --

8 A. When I talk about Non-Employee Related Costs,  
9 I talk about technology. I talk about insurance. I  
10 talk about curriculum and books. I talk about non-sexy  
11 day-to-day --

12 Q. Utilities?

13 A. Utilities. Those costs that every school  
14 district has to have in a way that -- in order to  
15 provide basic education. According, again, to OSPI and  
16 information that's been provided to me by Jennifer  
17 Priddy of the OSPI staff, we currently underfunding  
18 Non-Employee Related Costs by approximately \$585  
19 million a year.

20 As an example of that, we send out  
21 funding for books at 16 years, in terms of a cycle,  
22 while most school districts will try to keep their  
23 curriculum up on an eight-year cycle.

24 An argument can be made that, my  
25 goodness, an eight-year cycle, how could that be, but

1 given the information-age we're in -- but, again, those  
2 dollars right now the 125 million, the 585 million,  
3 those additional 366 million for classified and another  
4 \$167 million for the difference of a certificated staff  
5 are currently being paid out of levies. According to  
6 OSPI, we are providing out of levies basic education  
7 dollars to supplement to the tune of about 1.3  
8 billion.

9                   When I asked the Federal Way School  
10 District to independently look at that same group of  
11 categories, which, again, we all agree -- that are  
12 under the definition of basic education, the number  
13 they came up with was approximately \$27 million.

14                   If you take the Federal Way School  
15 District, which is about 2.1 percent, again, depending  
16 on enrollment this year, but, say two percent and you  
17 multiply that number out, not surprisingly it comes  
18 very close to that \$1.3 billion.

19                   I was interested after hearing, OSPI's  
20 projections for impact on whether or not I could get  
21 independent confirmation to see whether or not we were  
22 really talking about apples to apples or oranges to  
23 oranges when it came to the real world of a, as I said,  
24 a fairly exemplary template-like school district like  
25 Federal Way. And, independently, the chief financial

1 officer came up with a number that literally, when  
2 multiplied out, was very, very close in terms of what  
3 dollars now are being used or having to be raised by  
4 levies versus the dollars that are currently not being  
5 funded by education by the state.

6 Q. And when you say not being funded, you're  
7 talking about those program funding formulas?

8 A. Yes.

9 THE COURT: Mr. Ahearne, we're at the four  
10 o'clock hour.

11 MR. AHEARNE: Okay, Your Honor.

12 THE COURT: Thank you. All right. We're  
13 going to adjourn for the day.

14 Is Representative Priest going to be  
15 here tomorrow --

16 MR. AHEARNE: I hope so.

17 THE COURT: -- tomorrow meaning?

18 THE WITNESS: I will be here, Your Honor.

19 THE COURT: All right. Very good. So we'll  
20 continue with direct examination of Representative  
21 Priest at 9:00 a.m.

22 There's supposed to be an 8:30 matter  
23 tomorrow. I don't know if it's going or not, but if  
24 you'd like to set up at 8:45, we'll be ready to go  
25 right at 9:00 a.m.

1           MR. AHEARNE: And, Your Honor, we'll clean up  
2 the table, but can we leave our boxes?

3           THE COURT: You do not need to -- it's a  
4 criminal matter. You can actually leave anything you  
5 want out, so you don't need to cleanup anything.

6           MR. AHEARNE: We'll make it look neat.

7           THE COURT: Anything you want to leave on the  
8 tables or elsewhere is fine so long as we have fire  
9 egress. That's all we need.

10          MR. AHEARNE: Okay. Thank you, Your Honor.

11          THE COURT: All right. Very good.

12                 We'll see everybody tomorrow morning at  
13 9:00 a.m.

14                 Court will be adjourned.

15                 (Proceedings adjourned.)

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STATE OF WASHINGTON) )  
COUNTY OF KING ) SS:

I, CYNTHIA A. KENNEDY, an official reporter of the State of Washington, was appointed an official court reporter in the Superior Court of the State of Washington, County of King, on April 17, 2006, do hereby certify that the foregoing proceedings were reported by me in stenotype at the time and place herein set forth and were thereafter transcribed by computer-aided transcription under my supervision and that the same is a true and correct transcription of my stenotype notes so taken.

I further certify that I am not employed by, related to, nor of counsel for any of the parties named herein, nor otherwise interested in the outcome of this action.

Dated: \_\_\_\_\_

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